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May 24, 2004

Hand Delivered

Mr. Bruce Duke, Executive Director
Public Service Commission of South Carolina
Saluda Building
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Dear Mr. Duke:

I am writing on behalf of Verizon South Inc. ("Verizon") to inform the Commission that Verizon, pursuant to its existing interconnection agreements, has sent notices to CLECs doing business in South Carolina about the availability of certain unbundled network elements. The notices state that, as of August 22, 2004, Verizon will no longer accept new orders for (1) unbundled Enterprise Switching or, (2) unbundled shared transport for use with Enterprise Switching, as unbundled network elements under 47 U.S.C. § 251(c)(3). The notices also remind CLECs of the various options available to them to continue to receive wholesale services from Verizon for their embedded base of customers as of August 22 under alternative arrangements. A copy of the notice is attached.

In the *Triennial Review Order* ("TRO"), the FCC issued new rules and regulations that, among other things, established that requesting carriers are not impaired without access to unbundled Enterprise Switching or shared transport used in connection with Enterprise Switching, and that incumbent LECs are therefore no longer required to provide access to those elements under the 1996 Act.¹

The terms of existing interconnection agreements do not require Verizon to provide access to unbundled network elements that it is not required to provide under federal law. In accordance with those provisions, Verizon has provided notice of its intent to cease

¹ See *Triennial Review Order*, 18 FCC Rcd 16978, ¶¶ 419, 421, 451; 47 C.F.R. § 51.319(d)(3).

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providing access to the unbundled network elements described above in 90 days. Verizon will continue to accept orders for those elements until that date.

This 90-day notice period substantially exceeds the requirements of law. After the issuance of the *TRO* on August 21, 2003, carriers had seven months – until the end of March 2004 – to discontinue their use of unbundled DS1 Enterprise Switching and associated shared transport. Verizon is extending that period even further by providing CLECs until August 22, 2004, to make alternative arrangements – five months beyond what the *TRO* provides and a full year after the *TRO eliminated these UNEs*.

Verizon has also informed carriers that they have the option to continue to receive Verizon services on a resale basis under section 251(c)(4). Verizon has further provided a framework – subject to negotiation – for commercial service arrangements. In addition, Verizon has requested that any carrier that believes that its particular interconnection agreement requires Verizon to continue to provide the unbundled network elements at issue after August 22 to inform Verizon in writing of the basis for its position.

These notices are fully consistent with Verizon's pending Petition for Arbitration in Docket No. 2004-0049-C. In light of the over 3600 interconnection agreements that Verizon has with CLECs nationwide, the pending Petition sought to facilitate the adoption of a uniform amendment to those interconnection agreements to (1) reflect the terms of the *Triennial Review Order* – including the portions of that order that impose additional obligations on Verizon – and (2) clarify the consequences of subsequent legal developments during the course of federal court review of that FCC decision. Verizon continues to believe that it is important for this Commission to resolve the legal issues that have been raised in that docket. By doing so, the Commission can minimize disputes concerning parties' obligations under existing agreements, and create a consistent and orderly process for implementing future changes in governing law. At the same time, Verizon has proposed a brief abeyance in that proceeding, until June 15, 2004, to facilitate commercial negotiations. Verizon's notice again invites such negotiations.

But the existence of that pending amendment proceeding could not and does not alter parties' current obligations under existing interconnection agreements, as CLECs themselves have argued. The enclosed contract notices do not depend in any way on the resolution of the amendment arbitration proceedings.

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In sum, Verizon's course of action is fully consistent with the terms of its interconnection agreements and with its efforts to work with the Commission and other carriers to adopt a uniform amendment to those agreements. If you have any questions, please do not hesitate to contact me.

Sincerely,

Richard A. Chapkis
Vice President & General Counsel –
Southeast Region

Attachment